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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,232	12/21/2000	Rajeev Krishnamurthi	QCPA483C	4079

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QUALCOMM INCORPORATED		
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EXAMINER
SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
2618	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/12/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary

Application No.

09/746,232

Applicant(s)

KRISHNAMURTHI ET AL.

Examiner

Philip J. Sobutka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 16-19,25,27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chheda et al (US 6,073,025) in view of Kim (US 5,889,844).

Consider claims 16, 27. Chheda teaches a telecommunication messaging apparatus comprising: engaging in a service negotiation with a wireless subscriber unit in communication with a first source (Chheda see figure 1, base station 1) and a second source (Chheda see figure 1, base station 2) using a traffic channel (note that the soft hand off of Chheda would use a traffic channel, see column 2, lines 54-65, figure 5), allocating data rate (Chheda see especially column 10, line 52 – column 11, line 15) to

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enable concurrent communication between the wireless subscriber unit and the first and second sources using the traffic channel (Chheda see figure 5, column 8, line 60 – column 9, line 5).

Note that the claims do not distinguish over both data rates both being the same.

Chheda lacks a teaching of the sources communicating non-voice data. Note that the claims do not distinguish over both sources communication non-voice data. Official Notice is taken that non-voice data calls are well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to apply the arrangement of Chheda to data calls in order to allow users of the system to perform data calling while mobile.

Chheda also lacks a teaching of the mobile communication arrangement being controlled by an MSC. Kim teaches a mobile communication system in which control is performed by an MSC (Kim see figure 1A). It would have been obvious to one of ordinary skill in the art to modify Chheda to have an MSC perform the control arrangement in order to ensure that control was consistent throughout the system.

As to claim 17 Chheda in view of Kim as applied to claim 16, would determine primary and secondary service options, since the claims do not distinguish over both service options being the same.

As to claim 18 Chheda in view of Kim as applied to claim 17 would multiplex the number of bits (note that Chheda teaches using multiplexed arrangements, see column 1, lines 15-22, to send the bits see especially column 9, line 60 – column 10, line 10).

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As to claim 19, Chheda in view of Kim as applied to claim 16 teaches a base station in communication with the wireless subscriber unit and the MSC to relay service negotiation messages between the wireless subscriber unit and the MSC (Kim see fig 1A).

As to claim 25, Chheda in view of Kim as applied to claim 19, teaches of at least one of the wireless subscriber unit, the base station, and the mobile switching center communicate using code division multiple access (CDMA) modulation techniques (Chheda see especially column 1, lines 15-20).

Consider claim 28. Chheda teaches a method to establish communication between a wireless subscriber unit and a first source (Chheda see figure 1, base station 1) and a second source (Chheda see figure 1, base station 2) using a traffic channel (note that the soft hand off of Chheda would use a traffic channel, see column 2, lines 54-65, figure 5), the method comprising:

initiating a service negotiation with the wireless subscriber unit, allocating data rate (Chheda see especially column 10, line 52 – column 11, line 15) and enabling concurrent communication between the wireless subscriber unit and the first and second sources using the traffic channel based on the allocated data transmission rates (Chheda see figure 5, column 8, line 60 – column 9, line 5).

Note that the claims do not distinguish over both data rates both being the same.

Chheda lacks a teaching of the sources communicating non-voice data. Note that the claims do not distinguish over both sources communication non-voice data.

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Official Notice is taken that non-voice data calls are well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to apply the arrangement of Chheda to data calls in order to allow users of the system to perform data calling while mobile.

Chheda also lacks a teaching of the mobile communication arrangement being controlled by an MSC. Kim teaches a mobile communication system in which control is performed by an MSC (Kim see figure 1A). It would have been obvious to one of ordinary skill in the art to modify Chheda to have an MSC perform the control arrangement in order to ensure that control was consistent throughout the system.

As to claim 29 Chheda in view of Kim as applied to claim 28, would perform delivering a first message by the MSC to a base station in communication with the wireless subscriber unit for initiating the service negotiation; negotiating a new service configuration by the base station and the subscriber unit, the new service configuration providing for concurrent connection of both a new call and an existing call; and connecting the new call and the existing call using the new service configuration (Chheda see figure 5, column 8, line 60 – column 9, line 5).

As to claim 30, Chheda in view of Kim as applied to claim 29 would incorporate that the first message in the service negotiation would effectively be a Change Service Command Message.

As to claim 31, Chheda in view of Kim as applied to claim 30, would provide for the connection of both the new call and the existing call (Chheda see figure 5, column 8, line 60 – column 9, line 5).

As to claim 32, Chheda in view of Kim would of course negotiates the new service configuration based on the proposed service configuration (Chheda see figure 5, column 2, lines 50-68, column 8, line 60 – column 9, line 5).

4. Claims 20-24,26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chheda in view of Kim and in view of Czaja et al (US 6.078,570).

Consider claim 20. Chheda in view of Kim as applied to claim 19, lacks a teaching of the base station comprising: a base station message processor to analyze received messages and to determine messages to be generated and transmitted in association with the service negotiation; a base station message generator to generate messages under direction from the message processor and a base station transceiver to transmit and receive messages associated with the service negotiation.

Czaja teaches a message processor in a base station for receiving, analyzing and generating messages associated with service negotiation, i.e. hand-off (Czaja see especially fig 2, items 230,232, column 4, lines 30-39, column 5, lines 5-15). It would have been obvious to one of ordinary skill in the art to modify Chheda in view of Kim to use the message processor as taught by Czaja in order to provide dedicated processing capabilities for analysis and direction of hand.off.

Consider claim 21 Chheda in view of Kim and in view of Czaja lacks a teaching of the subscriber also including a message processor. It would have been obvious to one of ordinary skill in the art to modify Chheda in view of Kim to equip the subscriber with a similar message processor in order to perform the method at the subscriber unit.

As to claim 22, Chheda in view of Kim and in view of Czaja would incorporate that the first message in the service negotiation would effectively be a Change Service Command Message.

As to claim 23, Chheda in view of Kim and in view of Czaja would negotiate service when a new call for communication is arriving for the wireless subscriber unit from the first source when the wireless subscriber unit is already in an existing call with the second source (Chheda see figure 5, column 2, lines 50-68, column 8, line 60 – column 9, line 5).

As to claim 24, Chheda in view of Kim and in view of Czaja would propose a new service configuration which accommodates both the existing call and the new call (Chheda see figure 5, column 2, lines 50-68, column 8, line 60 – column 9, line 5).

As to claim 26, Chheda in view of Kim and in view of Czaja as applied to claim 21 teach a target base station in communication with the subscriber unit (Chheda see figure 5, column 2, lines 50-68, column 8, line 60 – column 9, line 5).

Response to Amendment

5. Applicant's arguments with respect to claims 16-32 have been considered but are moot in view of the new ground(s) of rejection.

6. Note that applicant's arguments presented in the previous communication mailed April 6, 2006 are not reflected in the present claim language. Specifically, applicant describes the invention as: "... a wireless subscriber unit... in voice communication with a user of a first device, while receiving text messages from a user of a second device".

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The present claims are not limited to the first source involving voice communication and the second source involving non-voice data.

Applicant is invited to contact the examiner for clarification.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Sobutka whose telephone number is 571-272-7887. The examiner can normally be reached Monday through Friday from 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4711.

8. The central fax phone number for the Office is 571-273-8300.

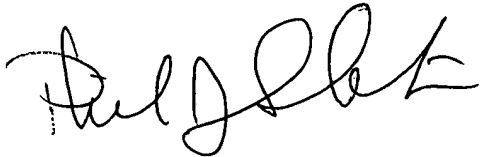
Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number.

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Philip J. Sobutka". The signature is fluid and cursive, with the first name "Philip" and last name "Sobutka" clearly distinguishable.

PHILIP J. SOBUTKA
PATENT EXAMINER

Philip J Sobutka

(571) 272-7887